




PRINCE EDWARD ISLAND HUMAN RIGHTS COMMISSION



28TH ANNUAL REPORT
2010-2011

Meet Our Staff and Commissioners



Photo by Brian Simpson, Provincial Photographer

From Left to Right:

George Lyle, Commissioner
Anne Nicholson, Chair
Gregory J. Howard, Executive Director
Arthur Currie, Commissioner
Wendy M. Baker, Human Rights Officer
Lorraine Buell, Administrative/Intake Officer
Lou Ann Thomson, Commissioner
Alcide Bernard, Commissioner
John Rogers, Commissioner

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**Prince Edward Island
Human Rights
Commission**



**Commission des droits
de la personne
de l'Île-du-Prince-Édouard**

53 Water Street, PO Box 2000, Charlottetown
Prince Edward Island C1A 7N8

53, rue Water, C.P. Box 2000, Charlottetown
Île-du-Prince-Édouard C1A 7N8

The Honourable Janice Sherry, Attorney General
Province of Prince Edward Island
PO Box 2000
Charlottetown PE C1A 7N8

Dear Minister:

Re: Prince Edward Island Human Rights Commission 28th Annual Report 2010-2011

On behalf of the staff and Commissioners of the Prince Edward Island Human Rights Commission, I am pleased to provide to you the Commission's Annual Report for the fiscal year 2010-2011.

We submit this report to you for presentation to the Legislative Assembly in accordance with section 22.1 of the Prince Edward Island *Human Rights Act* R.S.P.E.I. 1988, Cap. H-12.

Should you or your staff have any questions or require any further information, please do not hesitate to contact me.

Sincerely,

Anne Nicholson
Chair

Message from the Chair

Commission Chair – Anne Nicholson



Anne Nicholson of St. Andrews Point, Lower Montague, was born in Montreal, Quebec, and moved to PEI in 1975. Commissioner Nicholson was appointed to the Commission on May 19, 2004, and reappointed on April 3, 2007. She assumed the role of Acting Chairperson in May 2009 and was appointed Chair in May 2010 for a three year term. As a consultant, she has worked with community groups on issues including health, culture, relationship violence prevention, and social justice. A graduate of UPEI, Anne chaired the PEI Advisory Council on the Status of Women, was Director of the PEI Rape/Sexual Assault Crisis Centre, and served on the Premier's

Action Committee for Family Violence Prevention and the Board of PEI Family Violence Prevention Services. She is Project Officer with Community Legal Information Association of PEI Inc. She is married to David Bergmark and they have three grown children, Dylan, Lukas and Chloe.

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"It is recognized in Prince Edward Island as a fundamental principle that all persons are equal in dignity and human rights without regard to age, colour, creed, ethnic or national origin, family status, marital status, physical or intellectual disability, political belief, race, religion, sex, sexual orientation or source of income." (preamble to the *PEI Human Rights Act*)

The PEI Human Rights Commission is mandated to enforce the *Act* and to provide a program of public information and education in the field of human rights.

Prevention of discrimination through public education is an essential part of our work. We need to reach out to our youth to educate them about their rights and responsibilities, and develop new programs of public education to address the needs of newcomers to Canada. While public education is a priority of the Commission, there is no longer an Education Officer. We continue to appeal to the Provincial Government to reinstate our Education Officer (cut in the 2005-06 budget), but until that happens, our prevention efforts are limited significantly by resources.

The staff and Commissioners do their best to respond to requests for educational presentations while managing the work of the Commission, conducting panel hearings and writing decisions.

Serving along with me as Commissioners during 2010-2011 were Lou Ann Thomson, John Rogers, George Lyle and Art Currie. We appealed to the Standing Committee on Social Development to find a Francophone Commissioner and, in April 2011, we welcomed Alcide Bernard from Wellington, PEI, who brings with him a wealth of community and business experience.

August 2011 brought deepest sadness with the passing of Commissioner Art Currie. Art served on the Commission board since April 2009. He brought valuable experience and a unique perspective to his role as Commissioner. Art, you will be sadly missed and always remembered!

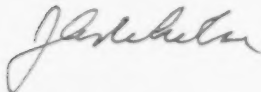
During the past year we had a change of staff when Human Rights Officer Maria McQuaid left Prince Edward Island to pursue other interests. I would like to thank Maria for her many contributions to the Commission and wish her every success. In September 2010 Wendy Baker joined our team as Human Right Officer. Wendy is from Spanish Ship Bay, Nova Scotia, but she is no stranger to PEI, having worked previously with a private law firm in Charlottetown. Welcome Wendy!

In the Spring of 2010, we received funding from the PEI Law Foundation to hire a summer student to complete research and update our educational material. The Commission hired Kathleen O'Neill, graduate of the human rights program at St. Thomas University, Fredericton, New Brunswick. Kathleen compiled a Human Rights Guide for Employers and Employees. She also worked on a File Retention Policy and developed a new look and feel for our web site. The new guide is helpful to employers and employees across the Island and we have received many compliments on our updated web site. Thank you Kathleen for all your efforts.

On December 10th, International Human Rights Day, we held the Third Annual PEI Human Rights Award Ceremony. This year's recipient was the PEI Council of People with Disabilities. Marcia Carroll, Executive Director, and Peter Doucette, President of the Council, accepted the award on behalf of the Council. The PEI Council of People with Disabilities is a not-for-profit, non-government organization providing employment counseling, public education and awareness, and information and referral to a community of close to 5,000 Islanders with disabilities. We applaud their successes in improving access to human rights on Prince Edward Island.

In June 2011, Lorraine Buell successfully completed her studies in Conflict Resolution at UPEI. We congratulate her on her success. This allows the Commission to offer mediation services to parties who wish to attempt early settlement of complaints.

I would like to thank the staff at the PEI Human Rights Commission office for their excellent work. I would also like to thank my fellow Commissioners for their support and commitment to the protection of human rights on PEI.

A handwritten signature in cursive script, appearing to read 'Anne Nicholson', written in dark ink.

Anne Nicholson
Commission Chair

In Memoriam

Arthur Currie, Q.C.



It is with great sadness that we report the death of Commissioner Arthur Currie, Q.C. who passed away suddenly on August 31, 2011. Art, of Argyle Shore was appointed Commissioner on April 16, 2009, for a three year term ending April 16, 2012. He was born in St. John's, Newfoundland. He earned a B.Sc. from Acadia University, a LL.B. from the University of New Brunswick, and a LL.M. from New York University.

Art served as a Flying Officer (RCAF); Legal Counsel, Department of Justice and Attorney General, Government of Canada; Prothonotary, Supreme Court of PEI; Legal Counsel, PEI Department of Justice and Attorney General; Deputy Provincial Secretary, Province of PEI; Chief Electoral Officer, Province of PEI (1978-1986); Deputy Secretary to Cabinet for Intergovernmental Affairs; Deputy Minister of Justice and Deputy Attorney General (1981-1993); Principal of the School of Justice and Director of the Atlantic Police Academy (1994-1996); and Member of Commission on PEI Electoral Future. Since 1987, Art had been an active volunteer and a member of the Board of Directors with PEI Volunteers for Literacy.

Art and his wife, Barb, lived on 30 acres on the Argyle Shore with a spectacular view of the Northumberland Strait. They have three children and six grandchildren. Art was dedicated to promoting equality and justice for all PEI citizens and his humour and common sense will be missed by us all.

Human Rights Award



Honourable Doug Currie, Marcia Carroll, Peter Doucette, Gerard Mitchell and Chair Anne Nicholson

The Prince Edward Island Human Rights Commission presented the third annual Human Rights Award to the PEI Council of People With Disabilities. Accepting the Award on behalf of the Council are Marcia Carroll, Executive Director, and Peter Doucette, President.

The Award for the Advancement of Human Rights was presented to the Council at a special ceremony held at the Delta Hotel in Charlottetown on Friday, December 10, which is International Human Rights Day. The Guest Speaker for the event was the Honourable Gerard Mitchell, Police Commissioner and former Chief Justice of the Supreme Court (Appeal Division). Honourable Doug Currie, Minister responsible for Human Rights, extended congratulations on behalf of the Province of Prince Edward Island.

The PEI Council of People with Disabilities was created in 1975 to advocate and provide services for Islanders with disabilities. It is a not-for-profit, non-government organization

providing employment counseling, public education and awareness, and information and referral to a community of close to 5,000 Islanders with disabilities.

The Award for the Advancement of Human Rights was created by the Prince Edward Island Human Rights Commission to recognize Island individuals or groups who have made an important contribution to the promotion of the values enshrined in the PEI *Human Rights Act*. It was established in 2008 to mark the 60th anniversary of the UN's adoption of the Universal Declaration of Human Rights.

Powers and Duties of the Commission

Since the enactment of the *Human Rights Act* on September 11, 1976, the Prince Edward Island Human Rights Commission has been empowered to:

- administer and enforce the *Act*
- develop a program of public information and education in the field of human rights to forward the principle that every person is free and equal in dignity and rights.
- advise government on suggestions, recommendations and requests made by private organizations and individuals.
- report as required by the Minister on the business and activities of the Commission.
- consider, investigate or administer any matter or activity referred to the Commission by the Minister or the Lieutenant Governor in Council.

The *Human Rights Act* is deemed to prevail over all other laws of the Province. A person may, within one year of an alleged incident, file a complaint with the Commission when he or she believes they have been discriminated against. The complaint must fall within one or more of the areas covered by the Prince Edward Island *Human Rights Act*. The areas are:

Accommodations, Services and Facilities

Lease or Sale of Property

Employment/Equal Pay

Membership in Employee or Professional Organizations

Advertisements and Publications

Volunteer Work

The complaint must be based on one or more of the grounds covered by the Prince Edward Island *Human Rights Act*. The grounds of discrimination are:

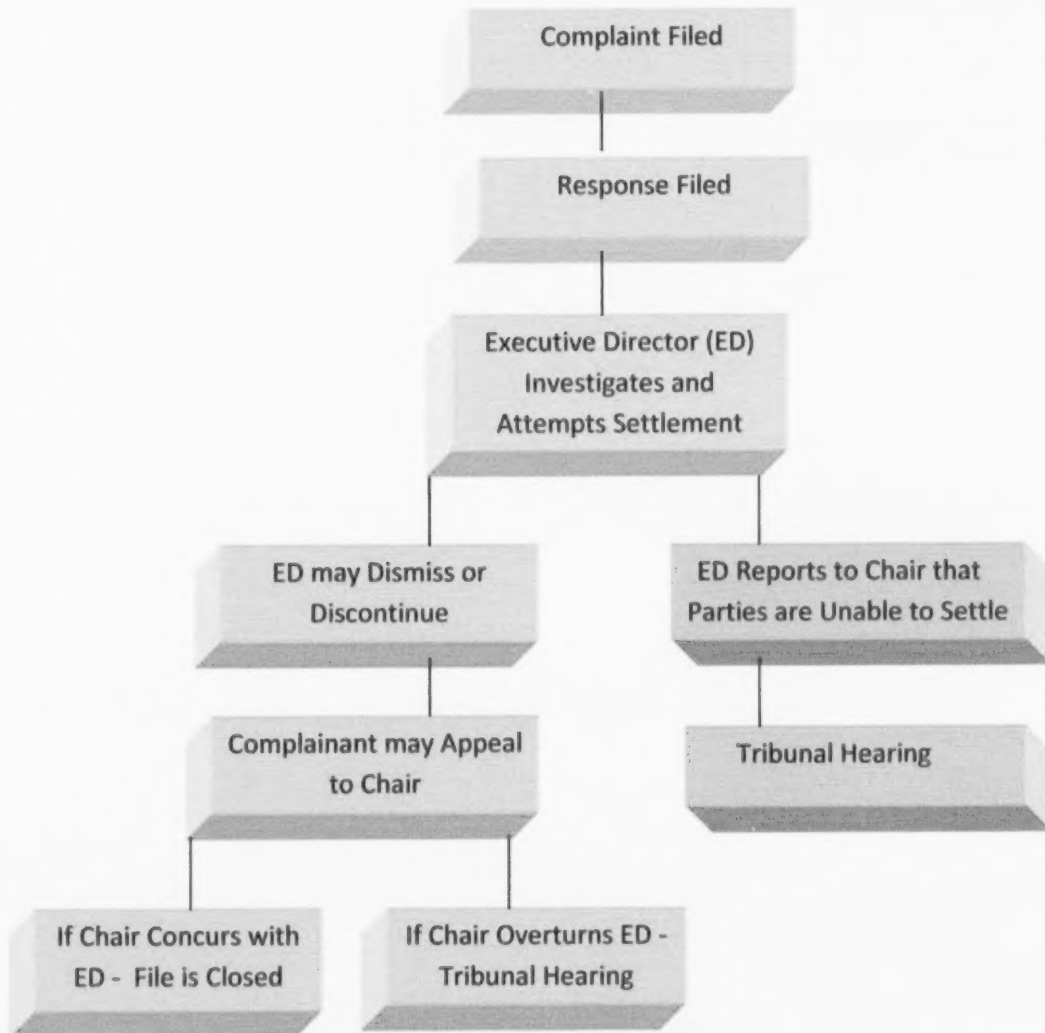
| | |
|--------------------|---|
| Age | Colour |
| Creed | Criminal Conviction (in employment only) |
| Disability | Ethnic or National Origin |
| Family Status | Marital Status |
| Political Belief | Race |
| Religion | Sex or Gender (pregnancy/sexual harassment) |
| Sexual Orientation | Source of Income |

Association with an individual or class of individuals is a ground that must be identified with one of the other grounds of discrimination.

Discrimination is prohibited against any individuals who **have filed complaints, or have given evidence/assistance during an investigation or at a human rights panel hearing.**

Complaint Process

Complaint Process



Complaint Statistics

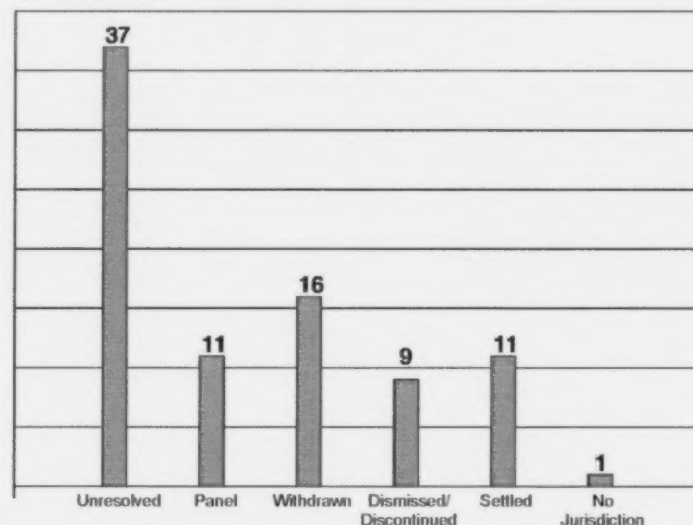
The Commission had a total of one hundred and five (105) open complaint files during this fiscal year. There were thirty six (36) unresolved complaints carried over from previous years, three (3) complaints were referred back to the Commission by the Courts and sixty-five (65) new complaints were filed in 2010-2011. In addition to written complaints, the Commission received approximately 1,800 phone inquiries from individuals concerned about their rights.

Number of Complaints in Areas and Grounds

| Ground of Discrimination | Carried over from previous years | | Received in 2010-2011 | | Total |
|---|----------------------------------|-------------|-----------------------|-------------|------------|
| | Employment | Other Areas | Employment | Other Areas | |
| Age | 9 | | 9 | | 18 |
| Association | | | | | |
| Colour, Race, Ethnic/National Origin | 4 | 1 | 1 | 1 | 7 |
| Creed/Religion | | | | | |
| Criminal Conviction | | | 2 | | 2 |
| Family Status | | | | | |
| Marital Status | | | | | |
| Disability | 6 | 3 | 13 | 10 | 32 |
| Political Belief | 2 | | 2 | 1 | 5 |
| Sex/Gender (including Pregnancy and Harassment) | 4 | 2 | 3 | 1 | 10 |
| Sexual Orientation | | | 6 | | 6 |
| Source of Income | | 2 | 1 | | 3 |
| Filing a Complaint/Given Evidence | | | | | |
| Multiple Grounds | 5 | 2 | 12 | 3 | 22 |
| Total Number of Complaints | 30 | 10 | 49 | 16 | 105 |

As in previous years, most complaints arise in the area of employment, while the most common ground of discrimination is disability. During the 2010-2011 fiscal year, sixteen (16) complaints were withdrawn, nine (9) complaints were dismissed or discontinued, ten (10) complainants requested a review by the Chair, eleven (11) complaints were settled and eleven (11) complaints were referred to panel hearing. One (1) complaint was deemed not to be within the jurisdiction of the Prince Edward Island Human Rights Commission. At year end, fifty-seven (57) complaints in various stages of the complaint process were carried over to the next fiscal year.

**Complaint Outcomes –
April 2010 - March 2011**



- Unresolved:** Complaints under investigation, undergoing settlement negotiations or awaiting a panel hearing.
- Panel:** Complaints that went to or were referred to a panel hearing.
- Withdrawn:** Complaints withdrawn by complainant or complaints considered withdrawn as Complainant cannot be reached.
- Dismissed or Discontinued:** Complaints dismissed or discontinued by Executive Director or Chairperson as set out in the *Act* (s.22(4)).
- Settled:** Complaints settled without going to a panel hearing.
- No Jurisdiction:** Complaints filed that did not fall within the jurisdiction of the PEI *Human Rights Act*, including those complaints filed outside the one year limitation period.

Settlements

It is less costly and more effective for parties involved in Human Rights complaints to develop their own solutions; therefore, mediation services are an integral component of the Commission's work. Settlements between Complainants and Respondents, whether mediated or not, may be agreed to at any time before a human rights panel rules on a complaint. Consistent with the Commission's mandate of providing human rights education, settlements often include an educational component for one or both parties to the complaint. The following summaries are examples of some of the complaints that were settled during the 2010-2011 fiscal year.

Employment – Disability

Filed in November 2009, mediated in April 2010, and settled in July 2010, this complaint provides an excellent example of speedy benefit derived from the Commission's capacity to mediate settlements while also providing timely educational interventions. The Complainant alleged discrimination in the area of employment on the ground of disability. The Respondent on the other hand, took pride in the level of routine accommodation provided disabled employees and denied having discriminated against the Complainant. Hoping for a mutually acceptable and speedy resolution of the complaint, both parties agreed to attend the mediation process led by a Commission staff person. The parties agreed to terms of settlement which included a letter of apology and positive reference letter from the Respondent; Two Thousand Dollars (\$2,000) from the Respondent to assist the Complainant's search for new employment; and the Respondent's management team submitted to diversity training conducted by Commission staff.

Settlements are also achieved through ongoing negotiations between involved parties that are facilitated by Commission staff. The following are examples of unmediated settlements that avoided a Human Rights panel.

Employment – Race

In a complaint filed in September 2008, the Complainant alleged discrimination in employment on the ground of colour, race, ethnic or national origin. Repeated instances of offensive, derogatory race-related comments and behaviors by a supervisory staff member were documented by the Complainant, an Aboriginal woman. Supporting documentation was also provided by multiple co-workers of the Complainant. Ongoing settlement negotiations

facilitated by Commission staff occurred from October 2008 until September 2009. In October 2009 both parties agreed to the Respondent furnishing the Complainant with letters of apology and positive reference and a Four Thousand Dollar (\$4,000) *ex gratia* payment for lost wages and dignity. Additional settlement terms included: Respondent maintaining a discriminatory free work environment and both parties undergoing training provided by Commission staff.

Employment – Disability

Filed in July 2010, the Complaint alleged discrimination in the area of employment on the ground of disability. For approximately six years, until becoming disabled in August 2009, the Complainant performed seasonal work for the Respondent. Having undergone successful surgery in March 2010, the Complainant anticipated returning to work for the Respondent at the start of the new season in May 2010. In June 2010 the Complainant learned of the job being filled by another worker. The Respondent maintained that poor job performance and apparent dissatisfaction with working in the construction environment resulted in the Complainant not being offered employment for that season. Ongoing settlement negotiations facilitated by the Commission occurred from September through December 2010. In January 2011, the parties settled upon the Respondent providing the Complainant with a letter of apology and reference and, following PEI's *Employment Standards Act*, One Thousand Five Hundred Dollars (\$1,500) pay in lieu of a two week notice period.

Panel Hearing and Court Decisions

Nilsson, Wills and Fell v. University of Prince Edward Island

Three complaints were referred to a Human Rights Panel (the "Panel") to consider whether the mandatory retirement policy imposed on employees of the University of Prince Edward Island (the "University") at age 65 constituted discrimination on the basis of age. Two of the complainants, Thomy Nilsson and Richard Wills, were members of the University faculty and the other complainant, Yogi Fell, was an employee of the University.

On May 7, 2007, the Panel convened to hear submissions on preliminary issues. On August 1, 2007, the Panel rendered a decision adding the University of Prince Edward Island Faculty Association ("Faculty Association") as a party Respondent; allowing the Canadian Union of Public Employees, Local 1870 ("CUPE") the opportunity to participate as an intervenor; and deciding that Ms. Fell's complaint as it related to sex or gender discrimination be held in abeyance until the age-based complaints were decided.

The University subsequently filed an application for Judicial Review of the Panel's decision. Among the preliminary issues was a request by the University that CUPE be added as a party Respondent to the proceedings. In its Judicial Review application, the University sought an order nullifying the Panel's decision to not add CUPE as a party Respondent. The Judicial Review was heard on October 7, 2008, and a decision was rendered on January 15, 2009. The Supreme Court of Prince Edward Island found that the decision of the Panel was in error and directed the Panel to add CUPE as a party Respondent.

The Panel reconvened for the hearing on October 13, 14, 15, 19, 20, 21, 26 and 27, 2009. In a decision dated February 18, 2010, the Panel found that the mandatory retirement of the Complainants at age 65 constituted discrimination and that the University failed to establish that the age discrimination was justified by the exceptions under ss. 6(4)(a), 11 and 14(1)(d) of the *Human Rights Act*, R.S.P.E.I. 1988, Cap. H-12. The Panel further found that the University was solely liable for the damages suffered by the Complainants. On March 16, 2010, the University filed an application for Judicial Review of the Panel's decision. The hearing of the Judicial Review application is scheduled for November 16 and 17, 2011.

On June 4, 2010, the Panel rendered its decision on remedies ordering the University to do the following: cease the contravention complained of and refrain from committing the same or similar contravention in the future; reinstate the Complainants Nilsson and Wills to their former positions with tenure and reinstate the Complainant Fell to a comparable position; provide monetary compensation plus interest to each Complainant for loss of income and general damages; reinstate each Complainant to the University's Pension Plan; provide a sum for income tax gross up where entitled; and pay costs to the Complainants, the Faculty Association, and CUPE.

The Respondent filed an Application for a Stay of Proceedings which was heard by the Court on October 13, 2010. The Court rendered its decision on February 28, 2011, denying the request for the Stay of Proceedings. The University has since appealed the Court's decision. A date for the appeal has not yet been set.

Ayangma v. Eastern School Board

On December 8, 2005, a Human Rights Panel (the "Panel") issued a decision finding that Mr. Ayangma had been discriminated against by the Eastern School Board (the "Board") on the basis of his race, colour, ethnic and national origin, and age. The Panel ordered the Board to pay to Mr. Ayangma \$55,000 plus interest for lost wages, and a further \$6,000 for hurt and humiliation.

The Board filed an application for Judicial Review of this decision and Mr. Ayangma also applied for further relief. Upon its review of the Panel's decision, the Prince Edward Island Supreme Court upheld the decision, and dismissed both parties' applications to vary the Panel decision.

Mr. Ayangma appealed on the issue of damages. The appeal and the Board's cross-appeal were heard by the Court of Appeal on January 24 and 25, 2008. The Court rendered its decision on July 4, 2008, allowing the appeal in part and varying the order of the applications judge in the following respects:

- (1) The decision of the Panel to reduce the Appellant's compensation for loss of income by \$13,654.06 was set aside and the Respondent was ordered to pay this amount to the Appellant, together with interest in accordance with the

Supreme Court Act R.S.P.E.I. 1988, Cap. S-10 from September 1, 1997 to the date of payment;

(2) The Respondent was ordered to pay the reasonable costs of the Appellant's travel, accommodations and food in relation to his travel between Charlottetown and Halifax. The issue was referred back to the panel for the assessment of these costs;

(3) The Appellant was awarded a portion of the costs of presenting his case to the panel;

(4) The Appellant was awarded the sum of money necessary for any income tax gross up;

(5) The Appellant was entitled to a letter of apology;

(6) The hiring policies of the Respondent as well as its cultural and diversity policies are to be reviewed by the Panel;

(7) The Respondent shall communicate this decision in accordance with these reasons.

Items (2) and (3) were dealt with by agreement between the parties and by a Consent Order of Chief Justice Matheson of the Supreme Court of Prince Edward Island. Items (4) through (7) were dealt with by the Panel. On January 30, 2009, the Board issued a letter of apology to Mr. Ayangma. On February 19, 2009, the Board confirmed that it had prepared a summary of the Court's decision and communicated the summary to all its teaching staff as per the Court's order. On April 6, 2009, the Panel made recommendations to the Board to revise and expand its policies on employment, harassment, and cultural and linguistic diversity.

On March 30, 2010, the Panel determined that Mr. Ayangma was not entitled to income tax gross up.

Deborah J. Kelly (Hawkes) v. Welfare Assistance Appeal Board

On June 5, 2003, Ms. Kelly filed a complaint alleging discrimination in the area of services on the basis of her source of income. The complaint was subsequently amended to add the ground of marital status. In a separate complaint filed on September 17, 2003, Ms. Kelly

added the grounds of association, sexual orientation and political belief. The Executive Director dismissed both complaints on August 26, 2004. Ms. Kelly requested that the decisions be reviewed by the Chairperson of the Commission. The Chairperson upheld the decision of the Executive Director. Ms. Kelly then made application for Judicial Review. Following a motion by Ms. Kelly for the separation of the complaints and appeals of the decision dismissing her motion, the Judicial Review was held on February 27, 2009. A decision dated May 14, 2009 allowed the application for Judicial Review and directed the Chairperson of the Commission to establish a Panel of Inquiry. Ms. Kelly appealed the Court's decision. The appeal hearing was held on January 19, 2010. The Court of Appeal released its decision, dismissing the appeal, on March 16, 2010. Ms. Kelly filed an application for leave to appeal in the Supreme Court of Canada. The Court did not grant leave to appeal.

The Panel hearing took place on October 18 and 19, 2010. On January 17, 2011 the Panel issued a decision in which it dismissed Ms. Kelly's complaint. Ms. Kelly filed an application for Judicial Review. A date for the Judicial Review hearing has not yet been set.

Deborah J. Kelly (Hawkes) v. Social Assistance Appeal Board

Ms. Kelly filed a complaint on September 20, 2004, alleging discrimination in the area of employment and services on the basis of association, sexual orientation, source of income and political belief. The Executive Director dismissed the complaint on November 7, 2005. Ms. Kelly requested that the decision be reviewed by the Chairperson of the Commission who in a decision rendered on February 16, 2006, concurred with the decision of the Executive Director. Ms. Kelly then filed an application for Judicial Review. The Court granted the application for Judicial Review in part and awarded costs to Ms. Kelly in the amount of Two Hundred Dollars and ordered the complaint be remitted back to the Commission for investigation. The Executive Director Delegate dismissed the complaint on October 30, 2008. Ms. Kelly requested a review of that decision. Upon review, the Chairperson concurred with the decision of the Executive Director Delegate. Ms. Kelly filed an application for Judicial Review and the hearing was held on January 13, 2010. The Court dismissed Ms. Kelly's application.

Ms. Kelly appealed the Court's decision to dismiss her application for Judicial Review. The appeal is scheduled to be heard on September 26, 2011.

Deborah J. Kelly (Hawkes) v. Prince Edward Island Human Rights Commission

On June 8, 2006, Ms. Kelly filed a complaint alleging discrimination in the area of employment on the basis of association and sexual orientation. On June 29, 2007, the Executive Director dismissed the complaint. Ms. Kelly's request for review by the Chairperson of the Commission was also dismissed. Ms. Kelly made application for Judicial Review. In the Judicial Review application, Ms. Kelly named the Attorney General of PEI as a party. The Attorney General subsequently brought a motion to have the application for Judicial Review struck as against it and that motion was granted on February 25, 2009. Ms. Kelly brought a motion at the same time seeking disclosure by the Commission of documents relating to the job competition as well as disclosure of the Executive Director's notes. The Commission consented to release of the documents relating to the job competition. The part of the motion relating to Executive Director's notes was dismissed on February 25, 2009. The application for Judicial Review was dismissed on June 1, 2009. Ms. Kelly appealed the decision.

The appeal hearing took place on April 14, 2010 and the Court rendered an oral decision dismissing the appeal. The Court provided written reasons on April 15, 2010. Ms. Kelly filed an application for leave to appeal in the Supreme Court of Canada, which was dismissed.

Nancy Wood v. Government of Prince Edward Island

On August 2, 2007, Ms. Wood filed a complaint alleging discrimination in the area of employment on the basis of disability. On November 3, 2008, the Executive Director dismissed the complaint as the Respondent reasonably accommodated the Complainant and therefore the Respondent's duty was discharged. Ms. Wood requested a reconsideration by the Chairperson of the Commission who, in a subsequent decision, concurred with the decision of the Executive Director. On April 7, 2009, Ms. Wood filed an application for Judicial Review.

The hearing of the Judicial Review application took place on February 28, 2011. On September 28, 2011, the Court gave written reasons dismissing the application.

Linda Toole v. East Prince Health

On October 4, 2006, Ms. Toole filed a complaint alleging discrimination in the area of employment on the basis of sex/gender. On February 4, 2009, the Executive Director dismissed the complaint as there was insufficient evidence of discrimination to warrant sending the matter to a public inquiry. Ms. Toole requested a review by the Chairperson of the Commission who, in a subsequent decision, concurred with the decision of the Executive Director. On June 8, 2009, Ms. Toole filed application for Judicial Review. The Judicial Review hearing has not yet been scheduled.

PEI Music and Amusement Operators Association Inc. et al v. Government of Prince Edward Island

On April 16, 2007, the Complainants filed a complaint alleging discrimination in the area of employment on the basis of political belief. On January 23, 2009, the complaint was dismissed by the Executive Director who found the complaint to be outside the one year limitation period for filing a complaint. The Complainants requested a review by the Chairperson of the Commission who concurred with the decision of the Executive Director.

On May 25, 2009 the Complainants filed an application for judicial review. The hearing of the judicial review application was held on March 8, 2010. The Court issued written reasons on September 21, 2010. The Government of Prince Edward Island appealed the Court's decision. The appeal was heard on June 23, 2011. The Court of Appeal has not yet rendered a decision.

David Dodds v. Prince Edward Island Human Rights Commission and Legal Aid

On March 4, 2008, Mr. Dodds filed a complaint alleging discrimination in the area of services and facilities available to the public on the basis of colour, race and ethnic or national origin, creed or religion, physical or mental disability, sex or gender, and source of income. On June 11, 2009, the complaint was dismissed by the Executive Director who found it to be outside the one year limitation period for filing a complaint.

Mr. Dodds requested a review by the Chairperson of the Commission. The Chairperson Delegate concurred with the decision of the Executive Director. On September 23, 2009, Mr. Dodds filed an application for Judicial Review. The hearing of the Judicial Review application has not yet been scheduled.

Silvain Olivain Aritho Amfoubalela v. French Language School Board

On May 5, 2008, Mr. Amfoubalela filed a complaint alleging discrimination in the area of employment on the basis of colour, race and ethnic or national origin. The Executive Director conducted an investigation into this matter. The Executive Director did not exercise his discretion to dismiss or discontinue the complaint and, as the parties were unable to reach a settlement, on July 29, 2010 the Executive Director referred this matter a Panel for hearing. The Panel hearing is scheduled for October 31 and November 1, 2, 7, 8, 9, 16, 17, 18, 2011.

Bartmann, O'Rourke and Collins v. University of Prince Edward Island

Barry Bartmann, Robert O'Rourke and Ronald Collins each filed complaints alleging that the University of Prince Edward Island discriminated against them in employment on the basis of age when they were manditorily retired at age 65.

Mr. Bartmann, Mr. O'Rourke and Mr. Collins were informed by the Executive Director that the issues raised in their complaints were the same issues under consideration by a Panel hearing the cases of Thomy Nilsson, Richard Wills and Yogi Fell; therefore, pending the outcome of those complaints, the Executive Director held the complaints of Mr. Bartmann, Mr. Collins and Mr. O'Rourke in abeyance. The *Nilsson et al* decision was given on February 18, 2010.

This matter was referred to a Panel on August 10, 2010. In June 2011, following the finding of liability against the University and the awarding of damages to Mr. Nilsson, Mr. Wills and Ms. Fell, the Panel conducted a hearing into damages for Mr. Bartmann, Mr. O'Rourke and Mr. Collins.

The Panel awarded Mr. Bartmann and Mr. Collins each an amount for lost wages, and Mr. Bartmann was awarded \$4,800 for lost professional development credits. All three Complainants were awarded costs in the amount of \$1,000 and general damages in the amount of \$8,000.

Bingley et al v. Eastern School Board

Lawrence Bingley, Stephen MacLean, George Bradley, Allen Perry, Wayne MacKinnon, Leonard Mullen, and Carol White are all school bus drivers. They filed complaints alleging that the Eastern School Board had discriminated against them in the area of employment on the basis of age when they were forced to retire at 65. This matter was referred to a Panel on November 17, 2010. The Panel hearing has not yet been scheduled.

Commissioners

The Commissioners are appointed by the Legislative Assembly on the recommendation of the Standing Committee on Health, Social Development and Seniors. They come from a variety of personal and professional backgrounds. Each brings experience and human rights expertise to decision-making, and provides leadership in setting the direction and promoting the work of the Commission.

Lou Ann Thomson, Commissioner



Lou Ann Thomson of Georgetown was appointed to the Commission on April 11, 2006, and her third term expires on April 18, 2014. She has served as a public health nurse in the Canadian North, practiced criminal law, and has served as a part-time member of the National Parole Board. She has experience and training in conflict resolution and has acted for a number of years as a volunteer mediator for youthful offenders in the Restorative Justice Initiative in Nova Scotia. She received her Bachelor of Nursing at Dalhousie University and her Bachelor of Laws at Dalhousie Law School. She has a strong record of community involvement and has worked to bring diverse groups together to build a healthy community. After more than 40 years as a parent, a community volunteer, a nurse and a lawyer, she remains committed to promoting the dignity of all persons.

John Rogers, Commissioner



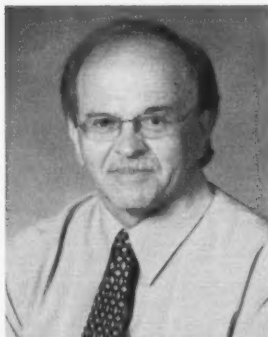
John Rogers of the Brae, PEI was appointed to the Commission in 2008. Mr. Rogers holds a B.A. and B.Ed. from the University of Prince Edward Island and a M.Ed. from the University of Ottawa. He retired from the public school system in 2005 after serving as a teacher, vice-principal, and principal. At present, Mr Rogers is employed as a sessional lecturer in the Faculty of Education at UPEI. He also devotes time to the family farm in the Brae and serves on the Boards of a number of community organizations including the PEI Potato Museum and Leard's Pond Environment Project Inc. Mr. Rogers continues to promote the principles of "fair treatment" and "equality of the individual" across this Province.

George A. Lyle, Commissioner



George Lyle of Summerside was appointed Commissioner on April 16, 2009, for a three year term ending April 16, 2012. Mr. Lyle has been practising law as a general practitioner since October 1978 in the Province of Prince Edward Island and prior to that held various positions with the Guaranty Trust Company of Canada. He is a graduate of the University of Ottawa Law School and a certificate program in Trust Business from Queens University. During the period of his private practice of law in the Province of Prince Edward Island he held the position of Chairperson of the PEI Labour Relations Board and is past President of the Law Society of Prince Edward Island and the PEI branch of the Canadian Bar Association. Mr. Lyle has served on various boards and has a strong community involvement in the City of Summerside. He is married and has four children.

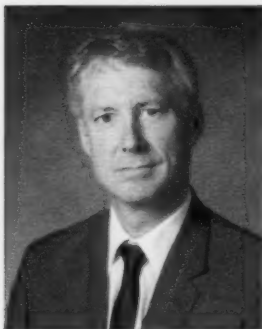
Alcide Bernard, Commissioner



Alcide Bernard of Wellington was appointed Commissioner in April 2011 for a three year term. Mr. Bernard holds a B.A. and M.B.A. from University of Moncton. He retired from Old Dutch Foods Inc in March 2011 after having served in various management positions throughout his 25 years in the potato chipping industry. Mr. Bernard is presently employed with the Atlantic Commission on Acadian Tourism as Tourism Development Officer for PEI. He has served as Chairman of the Incorporated Community of Wellington as well as having been involved in many other volunteer organizations in the Acadian community of Prince Edward Island.

Staff

Executive Director: Gregory J. Howard



Greg has been Executive Director of the Commission since 1999, except from 2007-2009 when he took a leave of absence to work in the Office of the Attorney General in Bermuda. He studied law at Dalhousie University and English and Education at Memorial University of Newfoundland. Greg is a member of the Law Society of Prince Edward Island and the Bermuda Bar Association. He was admitted to the Bar in 1991. Originally from Newfoundland, he married an Islander and they have two grown sons.

Human Rights Officer: Wendy Marie Baker



Wendy Marie Baker was born in Halifax and grew up in the village of Spanish Ship Bay, Nova Scotia. She has lived and worked in several places across Canada, but has been proud to call Charlottetown her home since 2008.

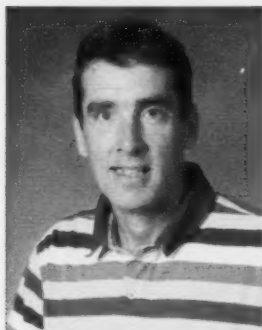
Wendy joined the Commission as Human Rights Officer in September 2010. She is a person with a disability. She has been a lifelong advocate for equity and equality, and supports the concept of promoting equality through education. Wendy received her Bachelor of Arts degree from Saint Mary's University in 1997 and a Diploma in Media Studies (Broadcasting) from the Atlantic Media Institute in 1999. She worked with the Canadian National Institute for the Blind for several years before returning to university. She received her law degree from the University of Victoria in 2006. Wendy has held legal positions in both the public and private sector, and is a member of both the Law Society of Newfoundland and Labrador and the Law Society of Prince Edward Island.

Administrative/Intake Officer: B. Lorraine Buell



Lorraine is the Commission's Administrative/Intake Officer and in-house Mediator. She has been a member of the Commission's team since 1998. She is an Islander and a resident of Stratford, PEI. Lorraine is a current member of the Canadian Payroll Association and past member of the Council of Canadian Administrative Tribunals and International Association of Administrative Professionals. She is a Commissioner of Oaths and Panel Clerk at human rights hearings. Lorraine received her training in Business Administration at Career Skills, Executive Office Administration at Holland College and Conflict Resolution Studies at the University of Prince Edward Island.

Summer Students



Thomas Hilton

A native Islander, Tom earned a B.A. from Bowdoin College (Brunswick, ME) and is now completing his Master of Education degree at UPEI. Thanks to project funding from the Law Foundation of Prince Edward Island, Tom worked at the Commission from June to October 2011. During that period, Tom solidified links between the Commission and the Department of Education and Early Childhood Development to advance the education of students on human rights.



Sophie Fournier

Sophie joined the Commission for a six-week internship in the Summer of 2011. She is from the North of France. Sophie is currently in her fourth year of a five-year program in Public International Law at the Catholic University of Lille. She is studying international litigation, international judicial order and the protection of human rights. She is currently training for a moot court competition.

Audited Financial Statements

AUDITOR GENERAL

CHARLOTTETOWN
PRINCE EDWARD ISLAND

PRINCE EDWARD ISLAND
HUMAN RIGHTS COMMISSION

FINANCIAL STATEMENTS

MARCH 31, 2011

AUDITOR GENERAL

CHARLOTTETOWN
PRINCE EDWARD ISLAND
AUDITOR'S REPORT

To the Commissioners of the Prince Edward Island Human Rights Commission

I have audited the financial statements of the **Prince Edward Island Human Rights Commission** which comprise the statement of financial position as at March 31, 2011, and the statement of operations and changes in net assets for the year then ended and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian generally accepted accounting principles for not-for-profit organizations and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

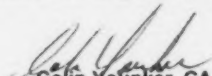
My responsibility is to express an opinion on these financial statements based on my audit. I conducted the audit in accordance with Canadian generally accepted auditing standards. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall financial statement presentation.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, the financial statements present fairly, in all material respects, the financial position of the Commission as at March 31, 2011, and its financial performance and cash flows for the year then ended in accordance with Canadian generally accepted accounting principles for not-for-profit organizations.


Colin Younker, CA
Auditor General

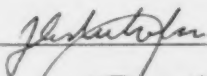

Charlottetown, Prince Edward Island
June 27, 2011

PRINCE EDWARD ISLAND
HUMAN RIGHTS COMMISSION
STATEMENT OF FINANCIAL POSITION
AS AT MARCH 31, 2011

| | <u>2011</u> \$ | <u>2010</u> \$ |
|--|-------------------|-------------------|
| ASSETS | | |
| Current Assets | | |
| Cash | 7,711 | 9,827 |
| Accounts receivable | 463 | 943 |
| Prepaid expenses | <u>2,600</u> | <u>898</u> |
| Total Assets | <u>10,774</u> | <u>11,668</u> |
| LIABILITIES AND NET ASSETS | | |
| Current Liabilities | | |
| Accounts payable and accrued liabilities | 19,037 | 9,114 |
| Net assets (deficit) | <u>(8,263)</u> | <u>2,554</u> |
| Total Liabilities and Net Assets | <u>10,774</u> | <u>11,668</u> |

(The accompanying notes are an integral part of these financial statements.)

APPROVED ON BEHALF OF THE COMMISSION:

COMMISSIONER: 
COMMISSIONER: 

**PRINCE EDWARD ISLAND
HUMAN RIGHTS COMMISSION
STATEMENT OF OPERATIONS AND CHANGES IN NET ASSETS
FOR THE YEAR ENDED MARCH 31, 2011**

| | <u>2011</u> \$ | <u>2010</u> \$ |
|--|-------------------|-------------------|
| Revenues | | |
| Grant - Province of Prince Edward Island | 352,300 | 376,476 |
| Other grants | <u>7,500</u> | <u>7,000</u> |
| | <u>359,800</u> | <u>383,476</u> |
| Expenses | | |
| Commissioner per diems (Note 5) | 29,553 | 39,879 |
| Conferences and training | 7,713 | 8,224 |
| Furniture and equipment (Note 2 (c)) | 2,987 | 3,934 |
| Hearing expenses | 5,619 | 7,917 |
| Memberships | 4,040 | 2,984 |
| Miscellaneous | 4,807 | 2,742 |
| Office and special projects | 9,563 | 9,625 |
| Photocopying | 3,829 | 3,145 |
| Professional fees | 15,770 | 30,544 |
| Rent | 17,967 | 19,600 |
| Salaries and benefits (Note 6) | 246,657 | 233,016 |
| Travel - staff | 3,794 | 5,980 |
| - commissioners | 14,768 | 11,446 |
| Telephone | <u>3,550</u> | <u>3,791</u> |
| | <u>370,617</u> | <u>382,827</u> |
| Annual surplus (deficit) | (10,817) | 649 |
| Net assets, beginning of year | <u>2,554</u> | <u>1,905</u> |
| Net assets (deficit), end of year | <u>(8,263)</u> | <u>2,554</u> |

(The accompanying notes are an integral part of these financial statements.)

**PRINCE EDWARD ISLAND
HUMAN RIGHTS COMMISSION
NOTES TO FINANCIAL STATEMENTS
MARCH 31, 2011**

1. Purpose of the Organization

The Prince Edward Island Human Rights Commission (the Commission) is a corporate body under section 16.(1) of the *Human Rights Act* of Prince Edward Island. The Commission is responsible for administering, enforcing the *Human Rights Act* and providing education and public information in the field of human rights. The Commission also inquires into and endeavours to effect a settlement of any complaint of a violation of the *Human Rights Act* filed with the Commission as prescribed by the *Act*.

The Commission is a non-taxable entity under the provisions of the federal *Income Tax Act*.

2. Summary of Significant Accounting Policies

Basis of Accounting

These financial statements are prepared in accordance with Canadian generally accepted accounting principles for not-for-profit organizations. The following is a summary of the significant accounting policies used in the preparation of these financial statements.

a) Revenues

The Commission follows the deferral method of accounting for grants and other contributions. Restricted contributions related to expenses of future periods are deferred and recognized as revenue in the period in which the related expenses are incurred. All other contributions are reported as revenue of the current period.

b) Expenses

Expenses are recorded on an accrual basis in the period to which the transaction or event that gave rise to the expense occurred.

c) Capital Assets

The Commission's capital assets include office furniture and equipment. Capital assets are expensed as acquired.

d) Future Accounting Pronouncements

The Canadian Institute of Chartered Accountants has announced planned changes to current Canadian generally accepted accounting principles for fiscal years beginning on or after January 1, 2011. Management is reviewing these changes and assessing the impact on future reporting.

**PRINCE EDWARD ISLAND
HUMAN RIGHTS COMMISSION
NOTES TO FINANCIAL STATEMENTS
MARCH 31, 2011**

3. Financial Instruments

All financial instruments reported on the statement of financial position of the Commission are classified as follows:

| | |
|---------------------|-----------------------|
| Cash | Held for trading |
| Accounts receivable | Loans and receivables |
| Accounts payable | Other liabilities |

Due to their short-term nature, all financial instruments are considered to be carried at amounts which approximate their fair value.

4. Lease Commitment

The Commission has entered into operating leases with future minimum lease payments as follows:

| <u>Fiscal Year</u> | <u>Amount</u> \$ |
|--------------------|---------------------|
| 2011/12 | 23,433 |
| 2012/13 | 23,908 |
| 2013/14 | 23,908 |
| 2014/15 | 21,500 |
| 2015/16 | <u>21,500</u> |
| | <u>114,249</u> |

5. Commissioner Per Diems

Commissioner per diems include panels of inquiry, meetings, education presentations, training and seminars and other Commission business.

6. Salaries and Benefits

a) Pension Costs

The employees of the Commission participate in a defined contribution pension plan. The Commission makes contributions amounting to 6.95 percent on that part of the salary on which Canada Pension Plan contributions are made and 8.75 percent on salary when Canada Pension Plan contributions are not required. The employee is not required to match or contribute to the plan. These contributions are paid to a Registered Retirement Savings Plan (RRSP) or Registered Disability Savings Plan (RDSP) as selected by the employee.

During the year, the Commission incurred \$15,173 (2010 - \$10,162) in expenses for contributions to the plan.

**PRINCE EDWARD ISLAND
HUMAN RIGHTS COMMISSION
NOTES TO FINANCIAL STATEMENTS
MARCH 31, 2011**

6. Salaries and Benefits (continued...)

b) Vacation Pay and Retirement Allowances

Vacation pay is recorded as a liability when earned. For the year ended March 31, 2011, the vacation accrual was \$5,788 (2010 - \$3,890). Liabilities related to retirement allowances will be funded and recognized by the Province of Prince Edward Island.

7. Statement of Cash Flow

A statement of cash flow has not been prepared as the required cash flow information is readily apparent from the other information included in these financial statements.

8. Prior Period Comparatives

Prior period results have been restated to conform to the presentation format adopted in the current period.



PRINCE EDWARD ISLAND HUMAN RIGHTS COMMISSION

**The Prince Edward Island Human Rights Commission
is an independent body that investigates, attempts to settle
and makes rulings on complaints of discrimination
that fall under the Prince Edward Island *Human Rights Act***

For more information, please contact us

In Person:

53 Water Street
Charlottetown PE C1A 1A3

By Mail:

Prince Edward Island Human Rights Commission
PO Box 2000
Charlottetown PE C1A 7N8

By Phone:

(902)368-4180 or
1-800-237-5031
(toll-free within Prince Edward Island)

By Fax:

(902)368-4236

By E-mail:

lbuell@peihumanrights.ca

or visit our website:
www.peihumanrights.ca